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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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PAUL A. GUSS
PAUL A. GUSS ATTORNEY AT LAW
775 S 23RD ST FIRST FLOOR SUITE 2
ARLINGTON, VA 22202

EXAMINER

SRIVASTAVA, VIVEK

ART UNIT PAPER NUMBER

2623

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,609

Applicant(s)

GELLER, URI

Examiner

Vivek Srivastava

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

As a preliminary note, the claims have not been amended by Applicant's and since the grounds for rejection have not been changed by the Examiner, the rejection in the previous office action has been incorporated by reference and is not be repeated in the instant action.

Applicant argues, "The suggestion to combine cannot be based on statements or material taken only from the present specification, as doing so constitutes proscribed hindsight." Applicant further argues "...the modification proposed in the office action lacks the necessary motivation to combine, since neither of the citations provides any suggestion or reason therein to make the proposed combination" and that the teachings were found in the present specification."

First and foremost the office action provided a motivation "for the benefit of promoting child adoption by providing a child to the most deserving parent contestant", thus the point of contention seems to be whether the motivation was proscribed hindsight. The Examiner finds it remarkable that Applicant's feel that American Adoptions website does not promote providing a child to the most deserving parents. The website clearly discloses a finding a homestudy provider (page 1) and parent contestants providing their bio data indicating why they feel they are most deserving.

The Examiner submits that adoption process is not easy, and parents most deserving are given preference over other parents. The motivation is not proscribed hindsight, and as a result, Applicant's arguments are not persuasive.

Applicant further argues "These statements make clear that professionals in the adoption industry vehemently rejection and linkage between the adoption process and game show competitions. Therefore, clearly, there is no incentive within the conventional prior art, including conventional adoption practices, to combine the features presented on the adoptionsolutions.com website with viewer participation game show format, such as described in Brasseur et al."

The statements provided by Applicants cite "Several adoption professionals said Tuesday that characterizing the adoption process as a competition is inappropriate and insensitive." The Examiner respectfully submits that the view of several adoption professionals does not necessarily reflect the view of all professionals. The Examiner further respectfully submits that Applicant's invention, although not specifically disclosed or recited, is also a "game show". Applicant's claims clearly recite broadcasting the adoption program to set-top boxes, wherein viewers select the parent contestants they feel are most deserving. In fact claim 13 recites the parent-contestants are subject to continuous and on-demand surveillance and claims 7 – 8 recite "wherein the selections are supplemented by bonus points" and "further wherein said points are awarded to parent-contestants based upon the performance of specified games or tasks". The Examiner respectfully submits that Applicant's invention is a competition in which the

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lives of everyone involved in the adoption process is subjected to more of game show than an intimate process. **It should be further noted that the remarks by the professionals were made on 20/20 on April 28, 2004, which is well after the filing and effective dates of the Brasseur reference and American adoptions website.**

As a result, Applicant's arguments are not persuasive.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs
5/28/06



VIVEK SRIVASTAVA
PRIMARY EXAMINER